IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7596 OF 2005

Pramila Moreshwar Patankar .. Petitioner

versus

Sunil Khandu Shelar .. Respondent

Mr.G.S.Godbole for Petitioner

CORAM : D.G.KARNIK, J

DATED : 17th February, 2006

P.C.

1. Heard learned counsel for the petitioner.

2. The petitioner is the landlord who has filed the suit against the respondent for possession on the ground of default in payment of rent and on the ground that he had acquired suitable other residential premises and kept the suit premises closed and locked. The trial Court as well as the appellate Court have concurrently held that the default was not proved and also held that the petitioner had not proved that the defendant had acquired suitable premises or that he had kept the suit premises locked.

3. The alternative premises alleged to have been acquired are at Manmad while the suit premises are at Nasik. The respondent along with his second wife stays at Nasik at the suit premises and it has been so held by the Courts below. So far as default is concerned the appellate Court has relied upon the decision of this Courtin Ramvilas vs Biharilal reported in 2002 Bom CR 6 and held that decree could not be passed on that count also.

4. The finding on both issues are possible findings of fact and are not shown to be perverse. In the absence of any perversity, the petition cannot be entertained in exercise of writ jurisdiction.

5. Writ Petition is rejected.

(D.G. KARNIK, J)